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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,831	01/11/2001	Yue Chen	150562.01	8533
22971	7590	12/12/2007		
MICROSOFT CORPORATION ONE MICROSOFT WAY REDMOND, WA 98052-6399			EXAMINER CHEN, ALAN S	
			ART UNIT 2182	PAPER NUMBER
			NOTIFICATION DATE 12/12/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

roks@microsoft.com
ntovar@microsoft.com
a-rydore@microsoft.com

Office Action Summary

Application No.

09/758,831

Applicant(s)

CHEN ET AL.

Examiner

Alan S. Chen

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of the Appeal Brief filed on 08/09/2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing at the end of this Office Action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-31 are rejected under 35 USC 103(a) as being unpatentable over US Pat. No. 5,862,362 to Somasegar et al. (*Somasegar, previously cited on PTOL-892*) in view of US Pat. No. 6,105,151 to Mahalingam et al. (*Mahalingam*).

5. Per claim 1, Somasegar discloses a computer (*Fig. 1, element 20 is a computer that serves out the switching functions shown in Fig. 2-4*) functioning as a computer-based network switch (*Fig. 4, shows the switching functions between at least two networks; Fig. 4, element 58 is an Ethernet based network and Fig. 4, element 59 is a token-ring based network*), comprising: a first network adaptor for connecting to an external network (*Fig. 4, element 58 is Ethernet network intrinsically capable of connecting to outside Internet; Column 3, lines 55-67*); a second network adapter for forming a connection with a network server (*Fig. 2, element 53 is a token ring network, each node on the ring having computer server*); a switching component (*Fig. 4, element 70, NDIS is a switching component; Column 5, lines 29+*) for receiving network communication data from the external network through the first network adaptor (*Send Packet Handler, element 108, sends to NDIS*) and directing the received network communication data to the second network adapter (*NDIS routes data to Receive*

Handler, element 115, of Token Ring adaptor) for transmission to the network server connected thereto (data destination is node on Token Ring network); and a test control component for selectively disabling the second network adapter (Fig. 4, element 120 is network failure simulator; Column 7, lines 34-Column 8, lines 15 discloses various failure conditions can be set, such as effectively disabling a adapter by simulating a disconnect of a network cable) to create connection failure conditions of the connections between the second network adapters and the network server connected thereto (the effective disconnection of a cable equates to a connection failure between the source of the data and the destination network server).

Somasegar does not disclose expressly having a plurality of secondary network adapters or primary network adaptors and simulating a plurality of failures thereof.

Mahalingam discloses a single computer having a primary network adapter (Fig. 1, element 18) and a plurality of network adapters (Fig. 1, elements 18-22) located on a single computer as well as the concept of testing for errors and the ability to disable adapters (Fig. 2, elements 54 and 58).

Somasegar and Mahalingam are analogous art because they are from the same field of endeavor in network troubleshooting on a single computer having a plurality of adapters.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include a plurality of secondary adapters for other networks to be connected to in Somasegar.

The suggestion/motivation for doing so would have been to scale the failure simulator to incorporate testing of network communication between more than two networks. Clearly, the more number of networks the computer to can communicate to, the higher network connectivity of the user, and therefore the ability for more productivity and efficient access to information.

6. Per claim 2, Somasegar combined with Mahalingam discloses claim 1, Somasegar further disclosing a third network adaptor (*Fig. 2, element 66 shows a network server connected to the host computer, which intrinsically requires another adapter to enable connection*) for connecting the test control component to the external network to allow the test control component to communicate with the external network (*Fig. 4, element 120 is the test component; Column 7, lines 64+ discloses the ability to insert code to send status to the destination computer indicating the specific kind of network failure condition*).

7. Per claim 3, Somasegar combined with Mahalingam discloses claim 1, Somasegar further disclosing 1 the switching component is programmed to operate on network communication data passing therethrough to create a communication test condition other than a connection failure condition (*Fig. 4, element 120 is the test component; Column 7, lines 64+ discloses the ability to insert code to send status to the destination computer which can be acknowledgment of successful send/receive*).

8. Per claim 4, Somasegar combined with Mahalingam discloses claim 3, Somasegar further disclosing the switching component is programmed to delay network communication data passing therethrough (*this is inherent in Somasegar since the*

switching and testing components are added as intermediate items between the source and destination devices, thereby incurring delay).

9. Per claim 5, Somasegar combined with Mahalingam discloses claim 3, Somasegar further disclosing the switching component is programmed to selectively drop network communication data (*Column 7, lines 34-40, intercepting packets to the effect of simulating a disconnect of network cable*).

10. Per claim 6, Somasegar combined with Mahalingam discloses claim 3, Somasegar further disclosing the switching component is programmed to reorder data in a communication stream passing therethrough (*Column 4, lines 25-35, packets are assigned numbers so they can be ordered upon receipt/transmission*).

11. Per claim 7, Somasegar combined with Mahalingam discloses claim 3, Somasegar further discloses introducing errors into network communication data passing therethrough (*Column 7, lines 34+ discloses modifying data packets, dropping data packets and other ways to introduce error*).

12. Per claim 8, Somasegar combined with Mahalingam discloses claim 1, Somasegar further disclosing the switching component is programmed for monitoring flows of network communication data therethrough from network servers to the external network (*Column 4, lines 43-64, network server monitors and processes requests*).

13. Per claims 9-31, claims 1-8 are significantly similar and therefore the rejections for claims 1-8 are applied accordingly.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan S. Chen whose telephone number is 571-272-4143. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Tsai can be reached on 571-272-4176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ASC
12/06/07

Alan S. Chen
12/06/07

Henry Tsai
HENRY TSAI
SUPERVISORY PATENT EXAMINER
12/6/07